W. Lane Lanford
Executive Director

Public Utility Commission of Texas

1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
512 / 936-7000 • (Fax) 936-7003
Web Site: www.puc.state.tx.us

August 5, 1999

VIA AIRBORNE EXPRESS
Office of the Secretary
Magalie Roman Salas
Federal Communications Commission
Portals II
445 12th St., SW
Suite TW-A325
Washington, D.C. 20554

RE: CC Docket No. 99-200; FCC 99-122—Notice of Proposed Rulemaking on Numbering Resource Optimization

Dear Secretary:

Enclosed please find an original and four copies of Initial Comments of the Public Utility Commission of Texas for filing in CC Docket No. 99-200, Notice of Proposed Rulemaking on Numbering Resource Optimization. Although the deadline for filing initial comments has expired, pursuant to 47 C.F.R § 1.46, the PUCT respectfully request that the FCC accept and consider the enclosed initial comments for filing in this matter.

Please return a file-stamped copy of these comments in the enclosed self-addressed, stamped envelope. If there are any questions, please contact me at the phone number listed below. Thank you.

Sincerely,

Thomas S. Hunter
Assistant General Counsel
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
TEL: (512)936-7280
FAX: (512)936-7268

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	§	
	§	
Numbering Resource Optimization	§	CC Docket No. 99-200
	§	
Connecticut Department of Public Utility Control Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service-Specific Area Code Overlays	§	RM No. 9258
	§	
Massachusetts Department of Telecommunications and Energy Petition For a Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781 and 978 Area Codes	§	NSD File No. L-99-17
	§	
California Public Utilities Commission And the People of the State of California Petition for a Waiver to Implement a Technology-Specific or Service-Specific Area Code	§	NSD File No. L-99-36

INITIAL COMMENTS OF
THE PUBLIC UTILITY COMMISSION OF TEXAS

I. INTRODUCTION

On June 2, 1999, the Federal Communications Commission (FCC) filed a public notice in a Notice of Proposed Rulemaking (NPRM) seeking comment on a variety of measures intended to increase the efficiency with which telecommunications carriers use telephone numbering resources.

The Public Utility Commission of Texas (PUCT) appreciates the opportunity to offer comments on the NPRM and applauds the FCC for taking action on proposed solutions to the numbering crisis faced by many states.

The NPRM requests comment on over 270 concepts that may be used to optimize the use of telecommunications numbering resources. The PUCT has not addressed all issues raised in the NPRM report or even the FCC's public notice. Instead, the PUCT has attempted to focus on those areas which it considers most significant and on which it can offer meaningful input. The PUCT's failure to address any particular issue should not be construed as concurrence or disagreement with the proposals in the NPRM.

II. BACKGROUND

The purpose of the NPRM is to establish new ways to slow the rate of area code exhaust and prolong the life of the North American Numbering Plan (NANP). The PUCT is particularly sensitive to the pressing need for such measures because of the explosive growth in the demand for numbers experienced by many of Texas' large metropolitan areas in recent years. The PUCT has by necessity been forced to address these issues and has explored and implemented a number of measures designed to conserve this ever-shrinking resource. The PUCT has also actively participated in various national fora on numbering issues, including the State Issues Task Force and Analysis Task Force of the Number Resource Optimization Working Group (NRO-WG) and the North American Numbering Plan Oversight Working Group (NANPA-WG). The PUCT respectfully submits that these efforts and experiences place it in a unique position to comment on many of the measures discussed in the NPRM.

The current numbering crisis is caused in part by growth in demand for numbers as well as competition. However, the PUCT believes that the primary cause of the current numbering shortage is the inefficient use of numbering resources. Solutions to these inefficiencies can and should be implemented soon.

The PUCT has expressed its opinions on numbering and area code relief issues in previous filings with the FCC. The PUCT filed a petition for reconsideration of the FCC's *Pennsylvania Order.*[1] The PUCT has also filed comments in support of the petitions filed by the state commissions of Maine, New York, Florida, Massachusetts, and California for additional authority to implement number conservation measures. The PUCT recently filed a similar petition for delegation of numbering authority of its own with the FCC.[2] Finally, the PUCT submitted detailed comments on the North American Numbering Council Report on Telephone Number Pooling and Other Optimization Methods (NANC Report).[3] The NANC Report formed the basis of the NPRM. Consequently, the PUCT's comments on the NANC Report are particularly relevant for the FCC in this NPRM proceeding. Because the PUCT has previously commented on many of the issues outlined in the NPRM, it incorporates the above-listed pleadings by reference in these comments. In the instant comments, the PUCT will focus primarily on issues on which it has not offered detailed comment in its previous FCC filings.

---

[1] *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Memorandum and Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (rel. Sept. 21, 1998) 13 FCC Rcd 19009 (1998) (Pennsylvania Order).

[2] *Petition of the Public Utility Commission of Texas for Expedited Decision for Delegation of Authority to Implement Number Conservation Measures*, NSD File No. L-99-55; DA 99-1380(filed July 2, 1999).

IV. ADMINISTRATIVE MEASURES

B. Definitions of Categories of Number Usage

The Central Office Code (NXX) Administration Guidelines (Guidelines) were established before the advent of competition. Since the passage of the Telecommunications Act of 1996, the assignment and use of NXX codes is key to the preservation of numbering resources in the NANP. The current voluntary system embodied in the Guidelines and administered by the Industry Numbering Committee (INC) does not work in today's environment. The PUCT supports the efforts of the FCC in maintaining a national uniform plan for NXX code and number administration. The PUCT believes that sound, mandatory number administration guidelines must be adopted by the FCC as soon as possible so that states like Texas can manage the current drain on NXX codes and the inefficient utilization of numbers.

Authority to enforce these guidelines must be given to entities with the knowledge, expertise, and willingness to exercise such authority. The PUCT suggests that enforcement authority be divided between the FCC, NANPA, and the states. Because of their unique knowledge and understanding of local circumstances, states are often in the best position to enforce the guidelines. However, states recognize the need for national uniformity on numbering issues and acknowledge that the FCC and NANPA also have an important role in enforcing numbering guidelines.

---

[3] *Comments of the Public Utility Commission of Texas on the North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Methods*, NSD File No. L-98-134 (December 18, 1998).

In response to paragraphs 39-40, the PUCT agrees with the FCC that establishment of uniform definitions is both fair and reasonable. The PUCT's comments on some of the specific definitions proposed are found below.

In paragraph 45, ported-out numbers are discussed and accounting questions are raised. Both carriers should treat a ported out number as unassignable. The porting out carrier should include the ported number in its overall utilization data. The ported to carrier should report the ported number in a special category for ported numbers so that the ported number is not double-counted.

In paragraphs 48 and 49, the FCC seeks comment on the definition of reserved numbers. The definition of reserved number is an important issue, and the definition must be narrowly drafted. The PUCT offers the following definition: a reserved number is a number or a block of numbers which: (1) is being requested (to be reserved) by a service provider (SP) for future use by a business or a residential customer; (2) is not currently assigned; (3) is not currently aging; and (4) resides within a block of numbers. Once reserved, a number should be assigned within 45 days. If the number is not assigned within 45 days, the number(s) will be reclaimed. In order to extend the time for holding a number in reserve, the applicant must show that the date for proposed implementation will be missed due to extenuating circumstances (e.g., hardware/software, regulatory delays). The applicant must make a written request for a specific amount of time of less than 30 days . When the extension is due to technical constraints (e.g., equipment unavailable or malfunctioning), the reservation may be extended until the constraint is no longer present.

To reserve a block, the block applicant must demonstrate that the block is essential to accommodate technical (e.g., switch, network element) or planning constraints or pending regulatory approval of a tariff and/or certification/registration/interconnection. In addition, the applicant must: (1) provide a proposed use date; (2) have received regulatory approval or document that it is in the process of requesting or will be receiving approval to serve a particular market (thereby identifying a particular central office). Blocks should not be reserved to accommodate vanity numbers because this practice lends itself to hoarding and delaying competitive entry. If a reserved block is not assigned within 45 days, the block should be released and returned for pooling purposes.

In paragraph 52, the FCC seeks comment on the definition of "unavailable for assignment." The current counting system should be tightened to exclude reserved numbers. Reserved numbers, if they are not activated in a timely manner, could be subject to take-back and consequently could be considered available.

As previously discussed, it is very important that assigned mean "in use"—not just "active." The fact that a switch is activated is insufficient. Carriers should produce evidence of customer usage of numbers to prove that they have assigned numbers from the block or NXX. Without this system, hoarding could take place by simply having a technician flip a switch. This hoarding would appear as normal, acceptable use, but it could be very harmful.

C. Verification of Need for Numbers

Initial Codes

In paragraphs 58 and 59, the FCC seeks comment on the type of showing that a new carrier should provide in order to obtain an initial block of numbers. In contrast to the current

system, carriers should be required to make a clear showing of need before obtaining any NXX codes, including initial codes. Any process for obtaining codes should be designed to minimize harm to competition. However, the present system which allows new entrants to reserve blocks well in advance of use does not work. The PUCT suggests that, in order to obtain an initial code in a rate center, carriers should be required to provide the following: 1) valid interconnection agreement (or evidence that it will have one within 6 months); 2) a copy of the requesting carrier's state certification to serve the rate center for which the code is requested; and 3) evidence that it will have facilities in the rate center within 6 months. Proof of the facilities requirement could include a copy of an order for equipment, a contract for UNEs, or other such documentation. The carrier should also be required to provide to the applicable state commission a description of its business plan (with appropriate confidentiality protective measures in place).

Carriers should be required to file their applications for initial codes with NANPA and the applicable state commission, if that commission has requested to receive such applications. NANPA should perform the initial review of the application and follow-up with the carrier and, where appropriate, the state commission on any missing or questionable information contained in the application. State commissions should have the option, but not the obligation, to participate in this process with NANPA. Due to resource constraints, some states will likely defer to NANPA on some or all code request applications. Other state will choose to be more active in this process and may request that they be given the authority to make the final determination on all code requests.

Growth Codes

The PUCT agrees with the FCC's tentative conclusion in paragraph 60 that the NANPA should assign additional codes if and only if an affirmative showing of need is made. States must have the opportunity to take meaningful and significant action in cases where they find need is questionable. A process similar to that suggested above in response to paragraphs 58-59 should be adopted. As in the determination for initial codes, states should have the option, but not the obligation, to make the final determination of need for growth codes.

Increasing data requirements for additional codes as discussed in paragraph 60 should make hoarding much more difficult, but it should not be viewed as a cure all. It should be in combination with reclamation power and other measures that should discourage and hopefully eliminate code hoarding.

Data filings by carriers could and should be more illuminating than the currently used Months to Exhaust worksheets. Line growth data would be more useful in proving the need for additional codes. If the line growth data does not show need, it might be acceptable for the carrier to explain their need for the additional code to NANPA and to the relevant state commission. All data filings should be accompanied by an affidavit from a qualified person employed by the requesting carrier attesting to the accuracy of the data provided.

In response to paragraphs 62-63, the PUCT agrees that carriers should be precluded from requesting additional codes unless and until a specific code utilization or percentage fill rate has been achieved. The PUCT suggests a fill rate of 80-85% in the relevant rate center be achieved before carriers may request and NANPA may assign growth codes to that carrier. Carriers should be permitted the opportunity to demonstrate a need for growth codes at a level below

80%. Carriers seeking growth codes under such circumstances should be required to submit written affidavits in support of their requests to both NANPA and the relevant state commission. Regardless of what fill rate is chosen, states would benefit greatly from the ability to adjust these rates, either up or down, in their states to accommodate local circumstances.

The PUCT agrees with the utilization rate formula described in paragraph 64, including the exclusion of reserved numbers, dealer pool numbers, and resellers' numbers from the numerator. Newly acquired codes should be included in the computations for each rate center. Otherwise, the utilization rates could appear inaccurately high. The distorted rates could lead to carriers acquiring codes when they do not actually need them. Excluding certain codes or other resources is inappropriate, with few exceptions. To the extent that NPA-wide carrier utilization rates are used to determine whether assignment of an initial code in a rate center is proper, it may be reasonable to exclude codes that have been acquired within the previous 90 days.

Quality forecasts should be sufficient to determine demand for codes for all carriers, including the wireless industry. The creation of a telephone number stockpile is inefficient and not in the public's interest.

The PUCT urges the FCC to adopt rate center-specific utilization rates. Statewide utilization rates, particularly for large states like Texas, will not provide accurate or meaningful information for the FCC, states, or the NANPA to make reasonable decisions on carrier applications for growth codes. In the alternative, NPA-wide utilization rates might also be used, but the PUCT prefers rate center-specific utilization rates. It is relatively simple to aggregate data as needed, but it is very difficult to estimate rate center data from more highly aggregated

sources. Further, when analyzing mixed NPAs, rate center level data does not result in the problems that can result from NPA aggregation or even higher levels of aggregation.

D. Reporting/Record-Keeping Requirements

Data collection

The PUCT agrees with the FCC's conclusions in paragraph 69 that the current system for forecast and utilization data collection must be strengthened. Data collection is a very important tool for determining NPA exhaust dates, assessing the impact of number conservation measures, (i.e., thousands-block pooling), and policing the code utilization of carriers. As demand for codes continues to grow, it is important for carriers to maintain accurate data. Forecasts are no better than the data on which they are based. Quantitative analysis of code consumption can also be valuable in determining the impact of number conservation measures. Forecast and utilization data can also be used to model the benefits and costs of number conservation measures.

The PUCT further agrees with the FCC that the current Central Office Code Utilization Survey (COCUS) is unreliable primarily because (1) submission of forecasts is optional; and (2) there are no penalties for requesting and obtaining resources in excess of a carrier's forecasted or actual needs.

The PUCT tentatively agrees with the FCC's tentative conclusion in paragraph 73 to require mandatory submission of forecasts and utilization to the NANPA.[4] However, the PUCT reserves final judgment on this issue until the allocation of costs for such a program is determined. If NANPA should serve as the principal agent for nation-wide collection of forecast

and utilization data, states should also be permitted to request additional information from carriers as determined by the relevant state commission and should also be allowed to review all data collected at the national/federal level. Without complete access to data, state commissions will be unnecessarily hampered in decision making about NPA relief and implementation of number conservation measures. States should not be limited to using the data solely for NPA issues such as jeopardy situations and area code relief as is apparently suggested in paragraph 73. States should also be able to use forecast and utilization data provided to NANPA to determine the need for and benefits and costs of implementing appropriate number conservation measures.

Regarding paragraph 74, the PUCT suggests that carriers should be required to report data according to the number status definitions identified in the NPRM rather than on a more aggregated basis.

The PUCT agrees with the FCC's conclusion in paragraph 75 that any utilization reporting requirements should be in addition to the demand forecast requirements under the COCUS. The PUCT again notes that carriers should be required to provide forecast data by rate center and should also be required to identify the specific rate center(s) for which they anticipate requesting additional codes.

Regarding paragraph 76, the PUCT suggests that carriers be required to report data on the thousand block level by rate center for all areas, including those that are not yet LNP capable. Before thousand block pooling is implemented, carriers will need to preserve uncontaminated thousand blocks. Requiring forecast and utilization data to be reported on a thousand block level

[4] The PUCT experiences in gathering data are discussed in more detail in its comments on the NANC Report at pages 31-34.

will therefore greatly aid in implementation of thousand block pooling, as requested by state commissions and/or mandated by the FCC.

Given the current growth in code usage in many NPAs, the age of data can be very important. Historically NANPA has received voluntary annual submissions, but the PUCT agrees with the FCC that carriers should be required to submit both forecast and utilization data on a quarterly basis. Data on this level should be more precise and thus more useful to the FCC, NANPA, and the states. This requirement should apply to all industry segments. However, the NANPA, after consulting with the relevant state commission, should have the option to alter the quarterly reporting requirements in the future as may be reasonable and necessary.

Many carriers have concerns about the confidentiality of the data that they provide to the FCC, NANPA, and state commissions. The PUCT submits that to the extent the FCC determines that carrier-specific forecast and/or utilization data is proprietary, it should designate such data as confidential and require the NANPA and state commission to maintain the confidentiality of such data. However, the fact that data is proprietary should not preclude the NANPA or state commissions from having access to this data. State commissions, including the PUCT, regularly receive and review proprietary data and are able to maintain the confidentiality of this information. For example, in June 1998, in preparation for its "virtual pooling" trial, the PUCT requested and received carrier-specific forecast and utilization data. PUCT staff successfully maintained the confidentiality of all of this information. The PUCT presumes other state commissions also have effective mechanisms in place for handling confidential information. Given state commissions' track record of responsible behavior, impeding access to proprietary data is both unwarranted and unnecessary. State commissions must have access to all carrier

forecast and utilization data (not just aggregated data) to properly implement NPA relief and number conservation measures.

In paragraph 79, the FCC asks whether small carriers should be held to the same data filing standards that larger carriers obey. Like other issues discussed in this NPRM, there may be a concern about unreasonable discrimination when smaller carriers are bound to significantly different rules than larger carriers. Data from small carriers is important too. For fairness and simplicity, the PUCT urges the FCC to adopt uniform reporting requirements for all carriers, but delegate to the states the authority to alter these reporting requirements if the state commission concludes this is necessary.

The PUCT supports AT&T's proposal for data disaggregation discussed in paragraph 82. Just as with the PUCT's suggestion that data collection should occur at the rate center level mentioned previously, the approach advocated by AT&T could produce much more informative reports. However, as noted previously, the PUCT believes forecast and utilization data should be submitted on a quarterly, rather than an annual basis. Numbering data changes too quickly for annual reports to be useful. Quarterly reports should allow state commissions and other bodies to react to problems much more quickly.

E. Audits

Audits are very useful in assuring that carriers use numbers in an efficient manner. In paragraph 83, the FCC advocates the use of audits on a widespread basis. A comprehensive auditing program is required to assure that carriers comply with applicable state and federal rules/guidelines. The PUCT supports use of all three types of audits suggested by the FCC in paragraph 84. For cause audits should be available for use by the FCC, NANPA, and the states.

Follow-up audits after for cause audits should also be permitted. This should provide assurance that the offending carrier has corrected the problems and is following applicable rules and guidelines. The PUCT further agrees with the three year schedule for audits proposed in paragraph 86, provided the standard for initiation of a for cause audit is not unreasonably difficult and the FCC requires submission of number utilization data on at least a semi-annual basis.

The PUCT believes the use of random audits is particularly important. The threat of accountability will likely encourage carriers to conform to all applicable reporting rules. If an audit reveals wrongdoing by a carrier, it would be advisable to follow with audits in subsequent years. Random audits would be especially important, if the FCC determines that annual comprehensive audits are too expensive and/or impractical. The three year rotation described in paragraph 86 could lead carriers to comply only in their audit year. Random audits would likely insure better continuous compliance with applicable rules and regulations.

Though not explicitly discussed in the NPRM, it may be important to consider what, if any, ramifications a carrier should face if found non-compliant in an audit. If the audit simply requires the carrier to correct the discovered misconduct, there is little incentive to comply with rules and regulations. The PUCT submits that it may be appropriate to implement a performance remedy plan to discourage non-compliance.

In paragraph 88, the FCC questions who should be given auditing responsibilities and how such responsibilities should be allocated among the FCC, state utility commissions, and/or neutral third parties. Auditing most certainly should be left to a neutral third party. The FCC should direct NANPA to conduct all three types of audits. States should have independent authority, however, to conduct their own audits, particularly for-cause audits, at their discretion.

States should be permitted to participate as they believe appropriate in any audits. The FCC should direct NANPA to work with state commissions to insure state concerns are heard and acted upon. States should be timely notified of all audits of carriers operating in their state and should be given access to all information provided to the NANPA auditors and should be provided copies of all audit findings.

F. Enforcement

In order to insure carrier compliance with industry guidelines as well as applicable state and federal rules, it is critical that meaningful sanctions be adopted for non-compliance. The PUCT agrees that the FCC, NANPA, and state commissions should each have a role in the enforcement process. The FCC should adopt specific mandatory requirements and ensure such requirements are enforced. The FCC should delegate enforcement of its requirements to the states and NANPA. Because states are in the best position to understand the particular needs of their respective states, they must be given sufficient enforcement authority to insure carrier compliance with all applicable rules and regulations. State enforcement is nothing new for carriers, many of which are already subject to state jurisdiction. NANPA (in conjunction with states) should be primarily responsible for enforcing the FCC numbering rules and policies. NANPA and the states should work cooperatively with each other to insure carrier compliance with all FCC numbering statutes, rules, regulations, and guidelines. States should be given the opportunity to participate in the enforcement process to the extent their resources allow such participation. NANPA should be required to develop appropriate enforcement processes and procedures that will ensure state commissions will have a meaningful voice in enforcing FCC requirements. The FCC, together with state commissions and NANPA, could create a list of

performance measures and a corresponding monetary penalty scheme. Payments could go to the affected state, the federal treasury, or some combination of each. The audit process could use the performance measures, which would likely closely match existing guidelines, as the benchmark by which to determine behavior.

The PUCT agrees that the FCC should authorize NANPA to withhold NXX codes as a penalty for violating the Guidelines, or any applicable state or federal rule, regulation, or guideline. The PUCT further agrees with the proposal in paragraph 92 that NANPA be empowered to withhold future numbers based on current violations if there are no pending requests for the offending carrier. In the increasingly competitive market, restrictions on NXX code assignment will likely be the most effective sanction. However, the PUCT agrees with the FCC that fines, forfeitures, and certification revocation could also be effective sanctions. Monetary penalties may be difficult to develop and in some cases could prove ineffective if carriers concluded the cost of the penalties were worth the violation. To be effective, monetary penalties must be sufficiently high to discourage violations. The standard for revocation of a certificate, if permissible by state law, could be a combination of objective factors including, among other things, the number of violations and the number of codes/numbers involved, and subjective factors, such as the impact of violations on the state or the affected NPA.

G. Reclamation of NXX Blocks

The PUCT believes the definition of "in service" for NXX codes should be modified as described in paragraph 98. The current system of counting a block in service the moment it is in the LERG is not as logical as the FCC's proposal to begin with activation and assignment of end-use customers. Though there may be an apparent incentive for carriers to activate a handful of

numbers in a block to make reclamation more difficult, such behavior might be discouraged by requiring sequential number assignment.

The PUCT also believes that the current reclamation process should be revised to require more aggressive reclamation of unused codes. On July 6, 1999, the PUCT filed a petition with the FCC for delegation of additional authority to implement number conservation measures, including NXX code reclamation power. The need for such authority is clearly illustrated by a recent experience in Texas.

On June 17, 1999, the PUCT staff held a meeting with an industry group in Texas known as the Number Conservation Industry Team (NCIT) to discuss various numbering issues, including the possibility of conducting number pooling trials in the 409 and/or 817 NPAs. Based on forecast data provided by Lockheed Martin CIS, as well as discussions with the industry, the PUCT staff concluded that a number pooling trial might be feasible for the 817 NPA. At the June 17 NCIT meeting the PUCT staff requested additional information from the industry and LM-CIS and agreed to discuss this issue further during an industry conference call on June 28.

On June 23, LM-CIS informed the PUCT staff that since June 1, 1999, 54 NXX codes had been requested in the 817 NPA. This rate of request far exceeded the historical usage rate for this NPA. The usage rate for the entire calendar year 1998 in the 817 NPA was 72 NXX codes. As a result of these unprecedented code requests, LM-NANPA declared jeopardy for the 817 NPA on June 23.

The June 17 NCIT meeting was announced on June 8. While there have been peaks and valleys in code assignment in the 817 NPA since 1995, June has historically been a slow month.

Exacerbating the gravity of this situation was the fact that rate center consolidation was completed in the 817 NPA in September 1998, which should have reduced the number of codes necessary to serve customers in this NPA.

The PUCT strongly believes that the "run" on 817 NXX codes explained above was intended, at least in part, to thwart the PUCT's efforts to implement a number pooling trial in the 817 NPA. Under current Code Administration Guidelines, however, there is little NANPA or a state commission can do to address such blatant misuse of numbering resources. The PUCT is convinced that if it or NANPA had code reclamation authority, carriers would not have requested 817 NXX codes so rapidly.

Specifically, NANPA should be required to initiate code reclamation within 30 days of the expiration of the affected carrier's applicable activation deadline. If the carrier fails to provide credible evidence, within 30 days of receipt of NANPA's request for explanation, for why the activation deadline had not been met, the code should be reclaimed. While carriers may be entitled to notice and hearing before code reclamation is completed, any such process should be on an expedited basis if reclamation is to be an effective sanction. Finally, the PUCT agrees with the FCC's proposal in paragraph 99 to shorten the time during which carriers can reserve codes and to also reduce the period of potential extension of such reservation.

In paragraph 100, the FCC discusses the delegation of additional authority to states and NANPA. The FCC's tentative conclusion is sound. States should have meaningful code reclamation power to address local numbering problems. Specifically, the PUCT suggests that states be given the authority to order the return of NXX codes both as part of a number pooling trial and in preparation for the eventual implementation of number pooling based on national

standards. Such authority would increase the effectiveness of any number pooling trial. Moreover, state commissions should have the authority to minimize code contamination by ordering the return of unused codes. Without such authority, it is conceivable that there will be insufficient uncontaminated codes remaining for pooling if and when it is implemented on a national basis.

The PUCT further suggests that states be given authority over NXX code reclamation in the context of rate center consolidation. If state commissions had explicit authority to mandate the return of unused NXXs resulting from rate center consolidation, this would significantly increase the effectiveness of this measure.

In the alternative, if the FCC does not delegate to state commissions the authority to reclaim NXX codes as discussed above, the FCC should amend the Guidelines to specifically empower NANPA to order and enforce reclamation of NXX codes in these situations. Whether enforced by the states or NANPA, sound numbering policy dictates that no service provider be permitted to hold NXX codes unless they are being used by customers.

V. COMMENTS ON OTHER NUMBERING OPTIMIZATION SOLUTIONS

B. Non-LNP Based Solutions

1. Rate Center Consolidation

In paragraphs 106, 116, 118, 119, 120, and 121 the FCC seeks comment on the merits of rate center consolidation. The PUCT has found that rate center consolidation can be an effective number conservation measure in some NPAs, but it is of little value in others. For example, as of September 13, 1998, Southwestern Bell Telephone Company (SWBT) has reduced the

cumulative number of rate centers in the Austin, Dallas, Fort Worth, Houston, and San Antonio metropolitan exchanges from 108 to 31.[5] The approved rate center consolidations do not affect local calling scopes, but create larger rate centers by the elimination of exchange boundaries. This permits a reduction in NXX code allocation for that area and can potentially extend the life of an area code because new providers need fewer NXX codes to serve the area. However, in more rural areas, rate center consolidation has not been feasible due to possible rate realignment issues. Because of the wide variance in the effectiveness, mandating rate center consolidation as a prerequisite to number pooling is inappropriate. State commissions should decide whether to pursue rate center consolidation in NPAs on a case by case basis.

As discussed above in comments to paragraph 100, the PUCT believes that to realize the full benefits of rate center consolidation, states should be given additional authority to require the return of vacant, unused codes that are no longer needed as a result of rate center consolidation. The PUCT's attempts to insure the return of unused NXX codes in consolidated rate center areas has had mixed results.

The PUCT ordered the return of vacant codes associated with rate center consolidations for the 972, 713, and 281 NPAs.[6] In response to this order, codeholders returned 51 NXX codes.In response to motions for rehearing contending that the PUCT did not have such authority, however, the PUCT amended its order to make voluntary the return of NXX codes rendered unused as a result of rate center consolidation.[7] Code holders were "strongly

[5] The PUCT's experience with rate center consolidation is discussed in more detail in its comments on the NANC Report at pages 10-13.
[6] Order No. 1, January 20, 1998, PUCT Project No. 18438, *Number Conservation Measures in Texas*.
[7] Order No. 3, March 13, 1998, PUCT Project No. 18438, *Number Conservation Measures in Texas*. .

encouraged to continue to return vacant, unused NXX codes whenever possible."[8] Notably, no codeholders requested return of any of the 51 originally returned codes as a result of the PUCT's decision to make such return voluntary rather than mandatory. Additionally, codeholders voluntarily returned 26 NXX codes associated with rate center consolidations for the 512 and 214 NPAs.

If state commissions had explicit authority to mandate the return of unused NXXs resulting from rate center consolidation, this would significantly increase the effectiveness of this measure. While states do not require FCC authority to consolidate rate centers, a national policy requiring all rate centers with identical calling scopes to be consolidated and all codeholders within the consolidated area to return all codes that have no assigned customers, except the code required to provide service, would be the building block for additional number optimization measures.

Finally, the PUCT agrees with the FCC that the 911 impacts of rate center consolidation must be carefully considered.

2. Mandatory Ten-Digit Dialing and Related Measures

Nationwide 10 digit dialing, as discussed in paragraph 126, is inappropriate in today's environment. To the extend not already controlled by FCC rules, local dialing patterns should remain the province of state commissions. The PUCT recognizes the potential qualitative and quantitative benefits of 10 digit dialing as outlined in the NANC Report.[9] Converting to

[8] *Id.* at 1.
[9] *Id.*. at 152-153.

mandatory 10 digit dialing separate from NPA relief would likely allow all future NPA relief to be less disruptive to the end user.

However, state commissions are in the best position to understand and respond to the needs of citizens in their respective states. This is particularly important on the issue of mandatory 10 digit dialing. Public opinion of 10 digit dialing (at least in Texas) varies considerably. In a hearing regarding NPA relief for the 512 area code last year, the City of Corpus Christi stated that faced with the option of changing their area code or keeping their telephone numbers with 10-digit local dialing, their preference would be to get a new NPA.[10] On the other hand, the Dallas area has seen the implementation of mandatory 10 digit dialing with few complaints. Currently, the PUCT is receiving public comments regarding proposed NPA relief for the 409 area code. The comments received reflected a near 50-50 split of opinion between an overlay proposal (which under current FCC rules require implementation of 10 digit local dialing) and a 3-way geographic split (which would not require implementation of 10 digit dialing). NPAs with both rural and urban areas (like the 409 NPA discussed above) also present a dilemma for implementation of 10 digit dialing. If the demand for NXX codes in such an NPA is driven primarily by the urban areas, the PUCT questions the fairness of imposing 10 digit dialing on rural areas who do not contribute significantly to the demand for NXXs.

The PUCT supports investigation into the costs and benefits of mandatory 10-digit local dialing as a number optimization measure. However, given this wide range in public sentiment the PUCT urges the FCC not to adopt mandatory nationwide 10 digit dialing at this time.

C. LNP Based Solutions: Number Pooling

[10] PUC Docket 16901, *Numbering Plan Area Code Relief Planning for the 512 Area Code,* The City of Corpus Christi, *et al's* Brief at Page 11 (Attached hereto as Attachment 11)

In paragraph 139-142, the FCC discusses individual telephone number (ITN) pooling and unassigned number porting (UNP). The FCC has tentatively concluded not to pursue ITN at this time, but seeks comment on this conclusion and on whether and how UNP should be implemented.

As the FCC correctly noted in paragraph 138, thousand block pooling can provide significant benefits for major markets. Local number portability (LNP) is key to the implementation of thousand block pooling. The FCC stated in paragraph 144 that the more widespread LNP's deployment among the carriers of an area, the greater the impact pooling will have. Using the 100 largest MSAs as a starting point may be acceptable, but other urban centers should be included shortly thereafter. The PUCT suggests that it might also be advisable to order implementation of thousand block pooling in all rate centers that will be LNP-capable by January 1, 2000. This will ensure that pooling will be implemented to save numbers in markets beyond those that are currently LNP-capable. States should have the option of delaying implementation of pooling or requiring that other number conservation measures be utilized in conjunction with number pooling as local circumstances may warrant. States are in the best position to determine the probable effectiveness of number conservation measures, including pooling, and should have the flexibility to make these determinations.

Conversely, the PUCT questions the merit of ITN pooling, given the length of time and costs required to implement it. In concept, ITN pooling would appear to be the most effective of the LRN-based conservation measures discussed in the NANC report. Administering numbers on an individual basis is intuitively more efficient than number administration in larger blocks of 10,000 (current industry practice) or even 1,000 (thousand block pooling). However, ITN

pooling also suffers from potential administrative and technical difficulties which should be more thoroughly considered before commitment to full-scale implementation of this measure. In time, ITN pooling may be necessary. But in today's environment the benefits of ITN pooling compared with those of thousand block pooling are modest and the additional costs are significant. For now, the FCC should focus its efforts on deployment of thousand block pooling.

The PUCT believes that UNP could prove beneficial in certain situations. For example, the NANC Report recommended that UNP be used to provide numbers to a service provider with insufficient numbers available to assign to a specific customer within a particular rate area.[11] The NANC Report defines "insufficient numbers" as a condition in which (1) a service provider has no inventory in a rate area to meet specific customer requests; (2) existing SP inventory for that same rate area is exhausted; or (3) existing inventory cannot meet customer needs due to technical constraints.[12] The PUCT supports implementation of UNP as presented in the NANC Report. Use of UNP in non-jeopardy situations was not considered in the NANC Report and while such a proposal may have merit, the PUCT believes this option must be studied further before it is implemented. The FCC should delegate to the states the authority to determine when and where implementation of UNP is necessary.

Thousand Block Pooling

The PUCT believes that thousand block pooling could be a very effective measure in preserving numbering resources.

In paragraphs 146 and 147, comment is sought on which entity, the FCC or state commissions, should make the decision to require thousands-block pooling in specific areas.

[11] NANC Report at 119.